

UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

September 1988

GEN-88-32

Dear Colleague:

The Student Assistance General Provisions regulations were amended on December 1, 1987 (52 FR 45712). The amended regulations contain major changes in the distribution formula for institutional refunds and for repayments of disbursements made to the student for noninstitutional costs (34 CFR 668.22). Many institutions have requested clarification of the changes. This letter is intended to provide that clarification.

We are also enclosing a list of questions and answers dealing with more specific details and potential problems arising from these changes.

Sincerely,

Dewey L. Newman
Deputy Assistant Secretary for
Student Financial Assistance

Daniel R. Lau
Director, Student Financial
Assistance Programs

Enclosure



Office of Student Financial Assistance
U.S. Department of Education
Washington, DC

Policy Update

RETURN TO GOV. PROC. CLERK

Refund Distribution Formula for the Title IV Programs

September 1988

Regulatory Changes to §668.22 of the Student Assistance General Provisions

Effective date

February 3, 1988

Limited waiver of liabilities

February 3 -
October 31, 1988

Limitations of waiver

The changes in §668.22 were effective on February 3, 1988, and apply to refunds calculated for any student who withdrew, dropped out, or was expelled from an institution on or after that date. Many institutions have expressed concern about whether they will be held liable for miscalculations made in computing Title IV refunds between the effective date of the regulations and the date of this letter. Given the confusion that has existed in this area, the Secretary has decided that, pursuant to section 432(a)(5) and (6) of the Higher Education Act of 1965, as amended, he will waive certain of his rights and claims with respect to the Stafford Loan (formerly Guaranteed Student Loan), Supplemental Loans for Students (SLS), and PLUS programs. **Specifically, no institution will be subject to a liability for any miscalculation of the amount of loan proceeds to be returned to a Stafford, PLUS, or SLS lender as a result of misunderstanding the change in §668.22 applying the payment period concept to those programs if the calculation was made during the period February 3 through October 31, 1988. In addition, the Secretary has decided not to assess any liability against an institution that, due to a misunderstanding of the regulation, failed to apply the "drop out date" definition in §668.22(d) to a Stafford, SLS, or PLUS loan refund calculation made during the period February 3 through October 31, 1988.**

This waiver does not apply to any other violations of §668.22, including, but not limited to, violations of unchanged provisions of the distribution formula (for example, the requirement that an institution calculate and return the Title IV portion of a refund to the appropriate Title IV program, or the requirement that an institution develop a written policy allocating the Title IV portion of refunds and repayments among the Title IV programs).

Section 668.22 contains six major changes:

- **Definition of institutional refund.**
- **Application of the concept of "payment period " to the Stafford Loan, PLUS, and SLS programs.**
- **Specification of the amount to be returned to the Title IV, HEA programs.**
- **Exclusion of College Work-Study Program funds from the refund distribution formula.**
- **Exclusion of Stafford , PLUS, and SLS loan proceeds from consideration in overpayments.**
- **Thirty-day limit for the return of Title IV, HEA program funds.**

*Summary of changes
made in §668.22*

Definition of institutional refund

Section 668.22(a)(2) defines "institutional refund" as the **amount paid for institutional charges for a payment period by financial aid and any cash payments minus the amount retained by the institution for the portion of the payment period** that the student was actually enrolled at the institution. The amount retained by the institution for the student's actual period of enrollment is calculated according to the institution's refund policy.

*Institutional refund
defined*

Under this change, an institution continues to determine whether a student is owed a refund of the amount paid for institutional costs according to the institution's refund policy. However, in calculating whether a portion of that refund must be returned to the Title IV program accounts or to the lender, the institution must consider only amounts that apply to the payment period during which the student withdrew. In some situations, the amount retained by the institution after the return of Title IV funds will be smaller than the amount that the institution might otherwise retain under its refund policy if a student did not use Title IV funds to meet his or her institutional costs, particularly in cases where tuition and fees are charged for an entire academic year rather than a payment period.

*Institution's refund
policy still applies*

*Amount retained does
not always include all
Title IV funds*

Application of the concept of "payment period" to the Stafford Loan, PLUS, and SLS programs

Payment period defined for Stafford, PLUS, SLS programs

Section 668.22(c) defines "payment period" for the Stafford Loan, PLUS, and SLS programs for purposes of this section only. The definition is based on the definition used by the campus-based programs. For an institution using semesters, trimesters, or quarters, those academic periods are the payment periods. For an institution that does not use those academic periods, a payment period is the period between the beginning and the midpoint or between the midpoint and the end of the academic year.

Intention of this regulatory change

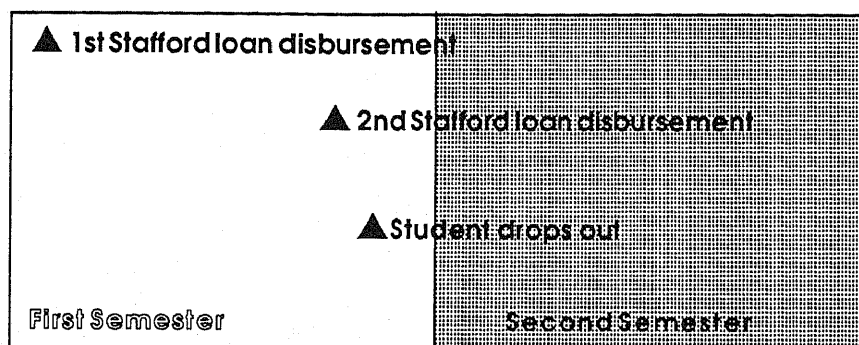
The intent of these changes is (1) to divide the loan period for the Stafford Loan, PLUS, and SLS programs, for the purposes of §668.22 only, into the same payment periods used by an institution for its administration of the other Title IV programs, and (2) to consider the loan as awarded in amounts corresponding to those payment periods. An amount of a Stafford, PLUS, or SLS loan that is proportionally attributed to a payment period subsequent to the one in which a student withdraws is not considered an overaward and is not considered part of the institutional refund. Instead, such an amount is considered not to have been awarded for a period of enrollment in which the borrower attended school and **any portion of that amount used for institutional costs must be lender under the regulations for the Stafford Loan programs (34 CFR 682.604(d)(4)).**

Portion of Stafford, PLUS, SLS not included in refund/overpayment

As noted on page 1, however, the Secretary is waiving the requirement that institutions apply the payment period concept in their calculation of the amount of Stafford, PLUS, or SLS loan proceeds to be repaid to the lender, if the calculations occurred during the period from July 1 through October 31, 1988.

Example for institutions using semesters

Two-Semester Academic Year



*Application at a school
using semesters*

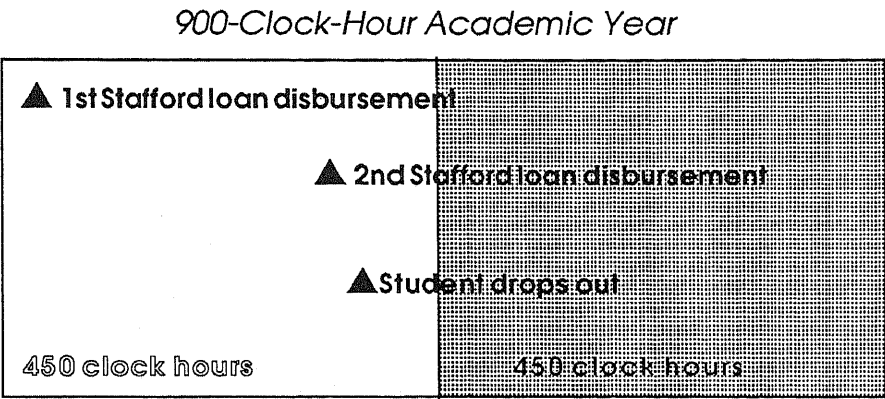
In this example, a Stafford loan is made to a student for a period of enrollment of two semesters (payment periods). The school received the first Stafford loan disbursement at the beginning of the first payment period and applied the disbursement entirely to institutional charges. The school received the second Stafford loan disbursement, however, before the beginning of the second payment period and applied that disbursement entirely to the student's account for institutional charges. The student subsequently dropped out before the beginning of the second semester. Under §668.22, the loan is considered to be awarded in amounts corresponding to the payment periods comprising the loan period. The institution may consider only the amount of the first Stafford loan disbursement in determining the institutional refund. The second disbursement, which was applied entirely to institutional charges, must be returned to the lender.

*Amount for the second
semester must be
returned to the lender*

Application at a school using clock hours

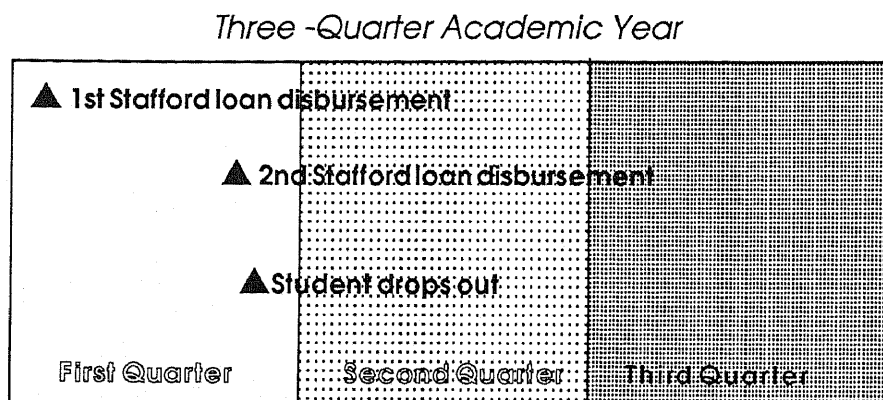
Amount for second payment period must be returned to the lender

Example for institutions using clock hours



In this example, a Stafford loan is made to a student enrolled in a 900-clock-hour program for a period of enrollment equal to the length of the program. Under §668.22(c)(1), the loan period is divided into two payment periods of 450 clock hours each. The school received the first Stafford loan disbursement at the beginning of the payment period and applied that disbursement entirely to institutional charges. The school received the second Stafford loan disbursement before the student completed 450 clock hours of instruction and applied that disbursement entirely to the student's account for institutional charges. The student subsequently dropped out before the beginning of the second payment period. Under §668.22, the loan is considered to be awarded in amounts corresponding to the payment periods comprising the loan period. The institution may only consider the amount of the first Stafford loan disbursement in determining the institutional refund. The second disbursement, which was applied entirely to institutional charges, must be returned to the lender.

Example for institutions using quarters



*Application at a school
using quarters*

In this example, a Stafford loan is made to a student for a period of enrollment of three quarters. The school received the first Stafford loan disbursement at the beginning of the first payment period and applied that disbursement entirely to institutional charges. The school received the second Stafford loan disbursement near the end of the first quarter and applied that disbursement entirely to the student's account for institutional charges. The student subsequently dropped out in the first quarter. Under §668.22, the institution is required to consider the Stafford loan to be awarded in amounts corresponding to the payment periods comprising the loan period. In this case, although the whole loan was disbursed in two equal disbursements, because the institution uses quarters, the loan is considered under §668.22 to be awarded in thirds. Therefore, because this student dropped out in the first quarter, the institution may only consider one-third of the amount of the Stafford loan in determining the institutional refund. The other two-thirds, which were applied entirely to institutional charges, must be returned to the lender.

*Amount for second
and third quarters
must be returned to
the lender*

Specification of the amount to be returned to the Title IV, HEA programs

Paragraphs (a)(3) and (b)(3) of §668.22 provide that the portion of a refund or overpayment to be returned to the Title IV programs is the **lesser** of either the amount of Title IV aid (other than College Work-Study (CWS) Program earnings) received for the payment period or the amount obtained by multiplying the institutional refund or overpayment by the appropriate fraction. This codification of a preexisting policy ensures that the amount returned to the Title IV programs does not exceed the amount that a student received from those programs.

Exclusion of College Work-Study funds from the refund distribution formula

Section 668.22(e)(1)* codifies a preexisting policy that provides that no portion of a refund or overpayment may be allocated to the CWS Program.

Exclusion of Stafford Loan, PLUS, and SLS loan proceeds from consideration in overpayments

Section 668.22(e)(2)* codifies a preexisting policy that provides that no portion of an overpayment resulting from a cash disbursement to a student of a Stafford, PLUS, or SLS loan may be allocated to the Stafford Loan, PLUS, or SLS programs. **Therefore, a school is not required to recover disbursements to a student of loan proceeds from those programs for noninstitutional costs for any payment period.**

*Note: §668.22(e) is misprinted in the December 1, 1987, Federal Register as §668.22(3).

30-day limit for the return of Title IV, HEA program funds

Section 668.22(e)(5)* requires the return of the Title IV portion of a refund (other than CWS, Stafford Loan, PLUS, and SLS program proceeds) to the appropriate Title IV program account(s) within 30 days of the date that a student officially withdraws or is expelled or the institution determines that the student unofficially withdrew.

Section 668.22(e)(6)* requires the return of the Title IV portion of an overpayment (other than CWS, Stafford Loan, PLUS, and SLS program proceeds) to the appropriate Title IV program account(s) within 30 days of the date that a student makes a repayment.

These changes were made to reduce potential abuse, allow the prompt reawarding of Supplemental Educational Opportunity Grant (SEOG) and Perkins Loan program funds, and provide consistent treatment among the Title IV programs. The change that applies to the Title IV portion of a refund also allows for situations in which a student drops out without notifying the institution. In those cases, the Title IV portion of the refund (other than CWS, Stafford Loan, PLUS, and SLS program proceeds) must be returned within 30 days of the date that the institution determines that the student dropped out. A different deadline contained in the regulations for the Stafford Loan, PLUS, and SLS programs (34 CFR 682.607(c)) applies to the portion of a refund allocable to those programs.

(See Q&A #16.)

*Student drops out
without notice*

*Note: §668.22(e) is misprinted in the December 1, 1987, Federal Register as §668.22(3).

Future proposals concerning institutional refunds

Pro rata refund
proposed

Further changes in the distribution formula as well as a *pro rata* refund policy for borrowers under the Stafford Loan, PLUS, and SLS programs are proposed in the recently published NPRM implementing the Secretary's default reduction initiative.

Invitation to comment
on refund distribution
formula changes

We invite you to comment on those proposals. We also ask you to provide us with comments on any other provisions of the current regulations particularly in light of your experiences with the actual application of the changes discussed in this letter.

***Questions and Answers on Regulatory Changes to
§668.22 of the Student Assistance General Provisions***

***Effect on institution's
refund policy***

1. Do these regulatory changes dictate an institution's refund policy?

A: No. These changes only regulate the use of Title IV, HEA funds. They do not dictate an institution's refund policy, nor do they place limits on what an institution may charge.

***Applicability of
definition of
"institutional refund"***

2. Does the definition of "institutional refund" apply to institutions that charge institutional costs for an entire program at the beginning of the program rather than charging by payment period and that have refund policies based on the portion of the entire program completed?

A: Yes. This definition applies to all eligible institutions participating in the Title IV programs regardless of their methods of charging students and their institutional refund policies.

***Institutions that
charge for an entire
program***

3. In interpreting the definition of "institutional refund," is the Department of Education going to give special consideration to institutions that charge by program rather than academic term?

A: No. The definition is limited to consideration of amounts attributable to a payment period specifically to ensure the equitable treatment of students at institutions that charge in advance for an entire program and that base their refund policies on the portion of the program completed. For example, an institution charges a student \$6,000 at the beginning of an academic year (\$3,000 for the first semester and \$3,000 for the second semester) payable at registration. The student withdraws in the third week of the first semester after having paid the full tuition and fee charges for both semesters. Under the institution's refund policy, the student is due a 50 percent refund of the first semester charges (\$1,500) and the entire amount paid for the second semester (\$3,000). However, the student only received Title IV, HEA institutional charges of the first payment

charges for the second payment period were paid by the student or by non-Title IV, HEA assistance.

Under the previous regulations, and under the definition of "institutional refund" that was proposed in 1984, the institution would have had to consider the entire \$4,500 refund in determining what portion must be returned to the Title IV programs. Under this definition, the institution considers only the \$1,500 attributable to the first semester in determining what portion is to be returned to the Title IV programs. The remaining \$3,000 is returned to the student or to the other sources of financial aid, if applicable.

*Institutions that charge
for an entire program,
continued...*

4. How does the application of the "payment period" concept work for multiple disbursements of Stafford (and SLS after October 1, 1988) loans at institutions whose academic terms are based on a quarter system?

*Multiple Stafford and
SLS loan disbursements
at schools using
quarters*

A: The number and timing of disbursements is irrelevant to the application of the concept of "payment period" in the distribution formula. (Refer to the example for institutions using quarters on page 6.) Stafford, PLUS, and SLS loan proceeds must be disbursed in accordance with the regulations for those programs. The concept of "payment period" for those programs is used only for purposes of the distribution formula.

At any institution, for purposes of the refund distribution formula, the amount of the Stafford, PLUS, or SLS loan proceeds considered to be awarded for a payment period is determined by dividing the whole loan amount by the number of institutionally defined payment periods in the period of enrollment for which the loan is made.

Multiple Stafford and SLS loan disbursements at schools using quarters, continued...

For example, if a Stafford, PLUS, or SLS loan of \$1,500 is made for a period of enrollment comprised of three academic quarters, one-third of the total loan, or \$500, is considered to have been made for each payment period.

Thus, if that loan were credited to the student's account in two disbursements received during the first quarter and the student subsequently withdrew during that quarter, only one-third of the total loan, or \$500, would be attributable to the first quarter for purposes of the distribution formula. The remaining two-thirds, or \$1,000 of the loan, would be attributable to the remaining two quarters and considered not to have been awarded to the student. Accordingly, the \$1,000 would have to be returned to the lender.

Applying both disbursements toward first semester charges

5. May an institution using a semester system still apply both disbursements of a Stafford or SLS loan to institutional charges in the first semester and, because the second disbursement was received in the first semester, include the full amount of the Stafford loan when determining the institutional refund?

A: No. For purposes of the distribution formula only, Stafford, SLS, and PLUS loan proceeds are considered to be awarded in amounts corresponding to the payment periods used for the other Title IV programs. As a result, an institution may not include, in determining amounts to be retained by the institution, payments made for institutional charges that are not allocable to the payment period in which a student withdrew, even if they were received and credited to the student's account during that payment period.

Releasing subsequent payment period funds to students

6. Is the amount of the Stafford or SLS loan that is considered to be awarded for the subsequent payment period(s) required to be released to the student?

A: No. The institution must return **to the lender** the portion of the Stafford, SLS, and PLUS loan proceeds applied to institutional charges for any subsequent payment periods.

7. Will an institution be in violation of the regulations for the Stafford Loan and SLS programs if the institution receives and holds a second disbursement until a student begins the second payment period before crediting that disbursement to the student's account?

*Holding Stafford and
SLS loan proceeds*

A: An institution may hold the proceeds of a Stafford or SLS loan for this purpose for up to 45 days before the institution is considered not to be in compliance with 34 CFR 682.604(c)(2)(i).

(See also Q&A #12.)

8. If the full amount of a Stafford, SLS, or PLUS loan cannot be included in the amount paid for institutional charges for the payment period in which a student withdraws, will an institution sometimes be left with an outstanding balance owed by the student to the institution?

*Balance on tuition
charges owed by a
student*

A: In certain circumstances institutions may be left with a balance owed by a student for institutional charges when the student drops out. One of the basic concepts underlying the Title IV programs is that the primary responsibility of meeting the cost of education rests with the student or the student's family. The student's or family's share of that cost is assumed to have been applied first before Title IV aid is applied to that cost. The changes in the distribution formula are consistent with that assumption. Thus, if the student has not yet contributed his or her share of the institutional costs before he or she

Balance on tuition charges owed by a student, continued...

withdraws from the institution, the institution may find that after it applies the distribution formula, there is an outstanding balance on the student's account. Based on the concept that the student's or student's family's contribution is applied first, this balance should be covered by the student in cash.

Application of Stafford and SLS loan proceeds to outstanding balances

9. An institution determines under §668.22 that Stafford or SLS loan proceeds must be returned to the lender because they are attributed to a payment period after the one in which a student withdrew. In addition, the student owes a balance to the institution. May the institution retain the portion of those proceeds that would offset the student's outstanding balance?

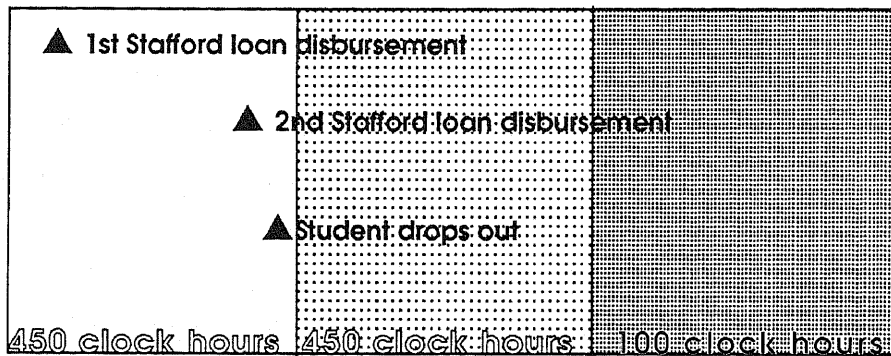
A: No.

Programs longer or shorter than one academic year

10. How is the Title IV distribution formula applied for students receiving or benefiting from a Stafford, PLUS, or SLS loan in programs that do not have standard terms and (a) are longer than one academic year, or (b) are shorter than one academic year?

(a) Program LONGER than an academic year

1000 clock hours (900 clock hours = 1 academic year)



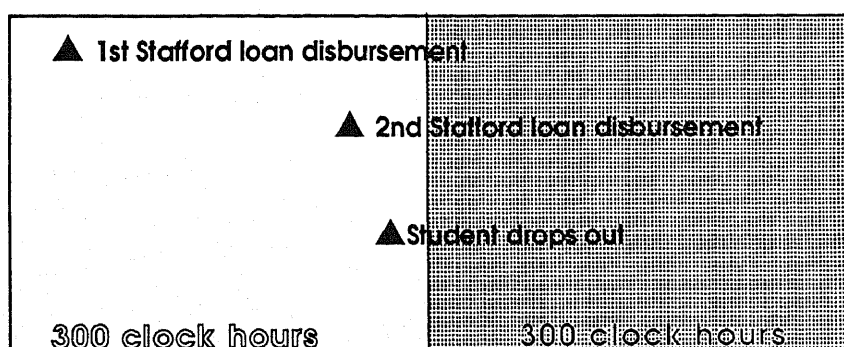
**Programs LONGER
than one academic
year**

In the case of a student enrolled in a program that is longer than one academic year, the loan is considered awarded in amounts corresponding to the relative lengths of the payment periods. In the example above, a student is enrolled in a 1,000-clock-hour program. A Stafford loan is made to the student for the entire 1,000-clock-hour period of enrollment. The school uses a 900-clock-hour academic year, divided into two payment periods of 450 clock hours each. The remaining hours make up the third payment period. Two disbursements of the loan were made for the student. The student subsequently dropped out before entering the second payment period and therefore is considered to have been awarded 450/1000 of the full Stafford loan.

(b) Program SHORTER than an academic year

Program SHORTER
than one academic
year

600 clock hours (900 clock hours = 1 academic year)



In the case of a student enrolled in a program that is shorter than an academic year, the entire program is divided in half to create two payment periods. The loan is considered awarded for the program in two equal amounts corresponding to the two payment periods. In the example above, two disbursements of a Stafford loan were made for a student enrolled in a six-month (600- clock-hour) program. The school uses a 900-clock-hour academic year. No loan proceeds were delivered to the student for noninstitutional costs. The student dropped out before completing 300 clock hours and therefore is considered to have been awarded one-half of the full Stafford loan.

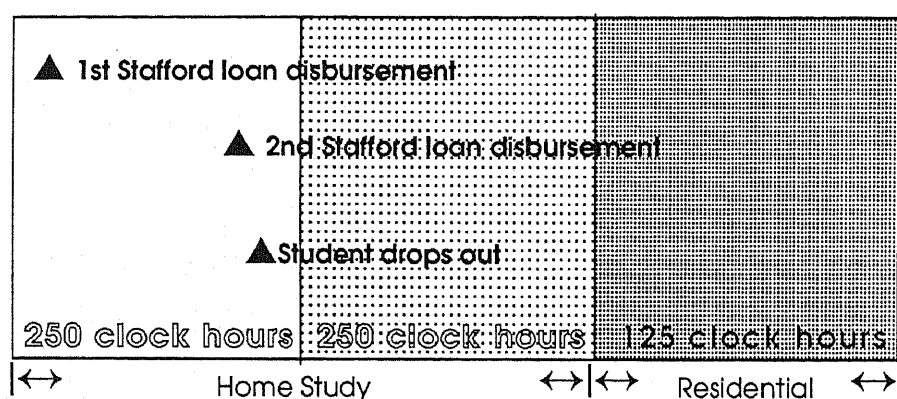
300 clock-hour
programs

This principle applies also for programs as short as 300 clock hours.

11. How is the Title IV distribution formula applied at correspondence programs with residential components?

Correspondence
programs

625-clock-hour program with residential component



A: In the case of a student enrolled in a correspondence program with a residential component, the home study portion of the program is divided into at least two payment periods, and the remaining residential portion of the program constitutes a third payment period. Title IV funds are considered awarded in amounts corresponding to the number of clock hours in each payment period. In the example above, two disbursements of a Stafford loan were made to a student enrolled in a 625-clock-hour program with a 125-clock-hour residential component and applied entirely to institutional costs. The home study portion of the program is divided into two equal payment periods of 250 clock hours each, and the residential training constitutes a 125-clock-hour payment period. The student dropped out before completing 250 clock hours and is considered to have been awarded $250/625$ of the full Stafford loan.

Prompt release of second Stafford or SLS disbursement to student

45-day limit on holding second disbursement

Credit to unpaid charges for first payment period

Amounts used in institutional refund and fraction

Amount paid = net amount of aid

Amount awarded = gross amount of aid

12. If the second disbursement of a Stafford or SLS loan is received by an institution during the first payment period, may an institution apply these loan proceeds to charges for the student's next payment period, or must the institution "promptly" release these funds to the student?

A: An institution may hold a second disbursement of loan proceeds for an enrolled student for a period not to exceed 45 days and apply them to charges for the second payment period provided that substantially all of the students incurring those costs have been billed for that period. Or, the institution may credit those proceeds to unpaid charges for the first payment period, so long as it returns the correct amount of loan funds to the lender if the student withdraws before the second payment period. In other words, §668.22 and §682.604 regulate the amount of a loan to be returned to a lender, **not** the internal accounting procedures of the institution.

13. With respect to Stafford loans, in determining the institutional refund, does an institution include the entire amount awarded for a payment period, including fees charged by the guarantee agency? Does an institution use that same amount to determine the fraction in §668.22(a)(3)(ii) by which the institutional refund is multiplied?

A: In determining the institutional refund, the institution uses only the **amount paid for institutional charges** for the payment period. That amount does not include the portion of a loan retained by a lender or guarantee agency for origination fees or insurance premiums. In determining the fraction, however, an institution uses the **amount awarded** for the payment period. That amount is calculated based on the total amount of the loan, including any fees retained by the lender or guarantee agency.

For example, a Stafford loan of \$2,650 is made to a student, but an amount of \$150 is deducted by the lender for origination fees and insurance premiums. The student thus receives two disbursements of \$1,250 each, which are credited to the student's account for tuition for two semesters. The student withdraws during the first semester.

Amounts used in institutional refund and fraction, continued...

In determining the institutional refund, the institution should include \$1,250 (amount paid for institutional charges for the payment period by the Stafford Loan Program). The amount of \$1,325 (one-half of \$2,650) is not used in this calculation because it includes an amount not paid for institutional charges.

However, in the numerator and denominator of the fraction used under §668.22(a)(3)(ii) to calculate the portion of the institutional refund to be returned to the Title IV programs, the institution should include the figure of \$1,325 (total amount of Stafford loan proceeds awarded for the payment period).

The remaining \$1,250 (the second disbursement, which is attributable to the second semester) is not part of the institutional refund and is not considered to have been awarded to the student. That amount is, of course, returned to the lender.

14. If a Stafford or SLS loan is singly disbursed, is it still considered to be awarded proportionately?

Single disbursements

A: Yes. The single disbursement must be divided into payment periods for purposes of the distribution formula. This requirement is true even for vocational school programs as short as 300 clock hours.

**Allocation of proceeds
from multiple loans**

15. If a student has multiple loans (e.g., Stafford and SLS loans) and an amount of loan proceeds attributable to subsequent payment periods must be returned to the lender for both loan programs, may the institution develop an allocation policy that would provide for first satisfying one loan (e.g., SLS loan) and then applying any remaining portion to the second loan (e.g., Stafford loan)?

A: No. Even if the student requests this procedure, the institution must return to the respective loan program the appropriate amount for each loan program. An institution's allocation policy applies to the Title IV portion of an *institutional refund* only. Amounts attributable to payment periods after the student withdrew are not part of the institutional refund.

Drop out date

16. Does the drop out date defined in §668.22(d) apply also to the Stafford Loan, PLUS, and SLS programs, given the definition of withdrawal date contained in §682.605(b)(1)(ii) of the Stafford Loan, PLUS, and SLS program regulations?

A: Yes. Under §668.22(d), the term "drop out date" is specifically defined as the last recorded date of class attendance by the student as documented by the institution. Section 682.605(b)(1)(ii) of the Stafford, PLUS, and SLS program regulations generally defined "withdrawal date," in the case of a student's unofficial withdrawal, as the date of withdrawal as determined by the institution. In some cases, institutions have used the date that they determined the student to have officially withdrawn, rather than the student's last day of attendance. In light of the confusion that appears to have existed on this issue, the Secretary has decided not to assess any liability against a school that, due to a misunderstanding of the regulation, failed to apply the "drop out date" definition in §668.22(d) to a Stafford, SLS, or PLUS loan refund calculation made prior to the date of this letter. For the future, however, schools are expected to apply §668.22(d) to such calculations.

17. Under the Stafford Loan, PLUS, and SLS programs, must a refund be paid if a student has not followed a loan provision in the enrollment contract that requires the student to *request* in writing that the refund be made?

*Written request for
refund not required*

A: The regulations governing the student's date of withdrawal (34 CFR 668.22 and 682.605), the refund policy (34 CFR 682.606), and the payment of a refund by the school to the lender (34 CFR 682.607) may not be superseded by any contract between the school and the student, even if the school's refund policy states that a refund must be requested in writing. Once the date of withdrawal is established (34 CFR 682.605(b)(3)), the school must determine the amount of the refund and the portion of the refund allocable to the loan program (34 CFR Part 668). The school must then return the refund within 30 days of the withdrawal date. The school may require that the student request in writing **only** the portion of any refund that is payable directly to the student.

